

Introduced by Senator Romero**(Coauthors: Senators Chesbro, Escutia, and Kuehl)****(Coauthors: Assembly Members Koretz, Longville, Lowenthal,
Strom-Martin, and Washington)**February 21, 2002

An act to amend Sections 114715, 114990, and 115060 of, to add Article 9.8 (commencing with Section 25209.10) to Chapter 6.5 of Division 20, and to add Chapter 10 (commencing with Section 115300) to Part 9 of Division 104 of, the Health and Safety Code, and to add Section 43022.5 to the Public Resources Code, relating to radiation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1623, as introduced, Romero. Radiation Safety Act of 2002.

(1) The existing hazardous waste control law prohibits any person from managing any hazardous waste, except as provided in that law, or in the regulations adopted by the Department of Toxic Substances Control. A violation of the hazardous waste control laws is a crime.

This bill would prohibit the disposal of radioactive waste at a hazardous waste disposal facility, but would allow the disposal of certain naturally occurring radioactive materials (NORM or TENORM waste) at a Class I or a Class II facility, as defined, if the facility's permit expressly authorizes the disposal of that waste and the facility complies with regulations that the department would be required to adopt imposing specified conditions upon the disposal of that waste.

Since the violation of these requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Existing law prohibits any person from burying, throwing away, or disposing of radioactive waste except in a manner that will result in no significant radioactive contamination of the environment.



The existing Radiation Control Law requires the State Department of Health Services, among other things, to issue licenses, and prohibits the state department from issuing a license to receive radioactive material for disposal unless specified requirements are satisfied, including that the land on which the radioactive waste are to be buried is owned by the federal or state government.

Under existing law, the Southwestern Low-Level Radioactive Waste Disposal Compact specifies that California is to serve as the state required to host the regional low-level radioactive waste disposal facility for the permanent isolation of low-level radioactive waste pursuant to specified federal requirements and the requirements of the host state. A violation of the provisions regulating radioactive waste is a crime.

This bill would enact the Radiation Safety Act of 2002 and would require any license issued pursuant to the Radiation Control Law by the state department pursuant to that law to also comply with the requirements of the Radiation Safety Act of 2002. The bill would prohibit any person from burying, throwing away, or disposing of radioactive waste within the state except at a disposal facility specifically licensed for that kind of radioactive waste. The bill would prohibit the state department from adopting any exemption from that requirement.

The bill would prohibit any generator or owner of radioactive waste from disposing of radioactive waste, or any materials containing byproduct, source, or special nuclear material, or transmitting to any person or entity for disposal, that material or waste, except at a specified licensed facility. The bill would prohibit any person from disposing of NORM or TENORM waste, except as specified above, or from recycling radioactive material, as specified. The bill would also prohibit any person from transferring a radioactive item containing radioactive contamination, for reuse by a person who is not licensed, or transferring or delivering any radioactive material to a person not possessing a license or permit specifically authorized to possess radioactive material.

The bill would specify the burden of proof with regard to enforcement actions under the act and would exclude, from the act, specified materials and activities, including the reuse or recycling of a radioactive item by an unlicensed federal entity, to the extent the item remains on the property, and under the control, of the federal entity.



(3) The existing California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to adopt and review regulations setting forth standards for solid waste handling. The term “solid waste” is defined, for the purpose of the act, as excluding radioactive waste regulated pursuant to the Radiation Control Law and the board has no enforcement or regulatory authority with regard to a facility that accepts low-level radioactive waste.

This bill would prohibit any person from disposing of radioactive waste, as defined, at a solid waste facility that meets the requirements of a class III waste management unit and would require the board to adopt regulations requiring testing and screening criteria, and specified notifications, with regard to radioactivity in solid waste material being submitted for disposal at a solid waste facility.

(4) The bill would declare that the provisions of the bill are severable and that if any provision of the bill or its application is held invalid, that invalidity would not affect other provisions or applications that can be given effect without the invalid provision or application.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 9.8 (commencing with Section
2 25209.10) is added to Chapter 6.5 of Division 20 of the Health and
3 Safety Code, to read:

4

5 Article 9.8. Low-Level Radioactive Waste

6

7 25209.10. For purposes of the this article, the following
8 definitions shall apply:

9 (a) “Class I” and “Class II” facility means a hazardous waste
10 facility issued a hazardous waste facilities permit pursuant to
11 Section 25200 that is classified as either a Class I or Class II waste
12 management unit pursuant to Chapter 15 (commencing with



1 Section 2510) of Division 3 of Title 23 of the California Code of
2 Regulations.

3 (b) “NORM” means naturally occurring radioactive material,
4 including radionuclides that are present in rocks, soil, minerals,
5 and ground or surface water at concentrations that occur naturally
6 and are present in the accessible environment. NORM does not
7 include low-level waste, source material, special nuclear material,
8 or byproduct material, as defined in Section 114985.

9 (d) “Radioactive waste” means any discarded radioactive
10 material with radioactivity above background level when
11 measured with the best available technology.

12 (e) “Radioactive material” includes, but is not limited to, all of
13 the following:

14 (1) Byproduct material, as defined in Sections 2014 (e) (1) and
15 2014 (e) (2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec.
16 2014 and following).

17 (2) Source and special nuclear material as defined in
18 subdivisions (e) and (f) of Section 114985, respectively.

19 (3) NORM.

20 (4) TENORM.

21 (5) Wastes from the Formerly Utilized Sites Remedial Action
22 Program operated by the United States Army Corps of Engineers
23 (FUSRAP), irrespective of when and where the wastes were
24 generated.

25 (f) “TENORM” means technologically enhanced naturally
26 occurring radioactive material, including radionuclides that are
27 naturally present in rocks, soil, minerals, and ground or surface
28 water and that past or present human activities, unrelated to the
29 production of radioactive material, have incidentally concentrated
30 or exposed to the accessible environment. TENORM does not
31 include low-level waste, source material, special nuclear material,
32 or byproduct material, as defined in Section 114985.

33 25209.11. Notwithstanding any other provision of law, except
34 as permitted by Section 25209.12, radioactive waste may not be
35 disposed of at a hazardous waste disposal facility that is subject to
36 this chapter.

37 25209.12. (a) NORM and TENORM waste may be disposed
38 of at a Class I or a Class II hazardous waste disposal facility only
39 if the hazardous waste facilities permit for that facility expressly
40 authorizes the disposal of NORM or TENORM waste and the



1 facility complies with the regulations adopted pursuant to this
2 section.

3 (b) The department, in consultation with the California
4 Integrated Waste Management Board, shall adopt regulations
5 requiring all of the following conditions for the disposal of NORM
6 or TENROM waste:

7 (1) The generator of NORM or TENORM waste shall provide
8 a notice to the waste transporter and the facility operator, which
9 shall include, but is not limited to, a notice that the waste material
10 includes NORM or TENORM waste, the radioactive levels of that
11 waste, and the origin on the waste.

12 (2) The facility shall comply with testing and screening criteria
13 to measure radioactivity in waste material being disposed of at a
14 facility.

15 (3) The facility shall provide notice to the hazardous waste
16 transporter and the public in the form of signage and written
17 notices at the facility.

18 (4) The facility shall implement procedures for hazardous
19 waste transporters and facility operators to respond to situations
20 where workers or the public are exposed to unexpected and
21 potentially dangerous levels of radiation. These procedures shall
22 include, but are not limited to, decontamination efforts, criteria
23 for, and a process of notice to, appropriate public agencies, and
24 detailed record keeping of these incidents.

25 SEC. 2. Section 114715 of the Health and Safety Code is
26 amended to read:

27 114715. (a) No person shall bury, throw away, or in any
28 manner dispose of radioactive wastes within the state except ~~in a~~
29 ~~manner and at locations as will result in no significant radioactive~~
30 ~~contamination of the environment in a disposal facility~~
31 *specifically licensed or permitted to dispose that kind of*
32 *radioactive waste pursuant to Chapter 8 (commencing with*
33 *Section 114960) or as provided in Article 9.8 (commencing with*
34 *Section 25209.10) of Chapter 6.5 of Division 20.*

35 (b) *Notwithstanding subdivision (c) of Section 115060, the*
36 *department may not adopt any exemptions from the requirements*
37 *of subdivision (a).*

38 SEC. 3. Section 114990 of the Health and Safety Code is
39 amended to read:

1 114990. (a) The department is designated as the agency
2 responsible for the issuance of licenses *pursuant to this chapter*. In
3 carrying out its duties under this section, the department may enter
4 into an agreement with the Division of Occupational Safety and
5 Health and other state and local agencies to conduct technical
6 evaluations of license applications prior to issuance of licenses.
7 The agreements shall also include provisions for conducting
8 inspections in accordance with Section 115095.

9 (b) *Any license issued by the department pursuant to this*
10 *chapter shall also comply with the requirements of Chapter 10*
11 *(commencing with Section 115300).*

12 SEC. 4. Section 115060 of the Health and Safety Code is
13 amended to read:

14 115060. (a) The department shall provide by rule or
15 regulation for general or specific licensing of persons to receive,
16 possess, or transfer radioactive materials, or devices or equipment
17 utilizing these materials. That rule or regulation shall provide for
18 amendment, suspension, or revocation of licenses.

19 (b) The department may require registration and inspection of
20 sources of ionizing radiation other than those that require a specific
21 license, and compliance with specific safety standards to be
22 adopted by the department.

23 (c) (1) The department may exempt certain sources of ionizing
24 radiation or kinds of uses or users from the licensing or registration
25 requirements set forth in this section when the department makes
26 a finding that the exemption of these sources of ionizing radiation
27 or kinds of uses or users will not constitute a significant risk to the
28 health and safety of the public.

29 (2) *Any exemption made pursuant to this subdivision shall be*
30 *adopted as a regulation pursuant to Chapter 3.5 (commencing*
31 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
32 *Government Code.*

33 (d) Regulations adopted pursuant to this chapter may provide
34 for recognition of other state or federal licenses as the department
35 may deem desirable, subject to registration requirements as the
36 department may prescribe.

37 (e) The department shall adopt registration and certification
38 regulations for mammography equipment. These regulations shall
39 include, but not be limited to, all of the following requirements:

(1) An X-ray machine used for mammography shall be specifically designed for mammography and inspected by the department, or deemed satisfactory by the department based upon evidence of certification by the American College of Radiology mammography accreditation program, or an accreditation program that the department deems equivalent before it is certified.

(2) That all persons who have a certificate for mammography equipment follow a quality assurance program to be adopted by the department to ensure the protection of the public health and safety.

(3) That quality assurance tests, as determined by the department, are performed on all mammography equipment located in a mobile van or unit after each relocation of the mobile van or unit to a different location for the purpose of providing mammography. This equipment shall be recalibrated if images are not of diagnostic quality as determined by the department. A written record of the location of mobile vans or units with dates and times shall be maintained and available for inspection by the department.

(4) ~~On or after July 15, 1993, all~~ All mammography equipment shall be registered with and certified by the department. If this mammography equipment is certified by a private accreditation organization, the department shall take into consideration evidence of this private certification when deciding to issue a mammogram certification.

(5) All licenses, permits, and certificates issued by the department pursuant to this chapter and the Radiologic Technology Act (~~Section 27 Chapter 6 (commencing with Section 114840))~~) relating to the use of mammography equipment shall be publicly posted pursuant to this section and regulations adopted by the department.

(f) To further ensure the quality of mammograms, the department shall require all mammogram facilities, other than mobile units or vans, to operate quickly and efficiently so as to ensure that the facilities are able to develop mammograms of diagnostic quality prior to when the patient leaves the facility.

SEC. 5. Chapter 10 (commencing with Section 115300) is added to Part 9 of Division 104 of the Health and Safety Code, to read:

CHAPTER 10. RADIATION SAFETY ACT OF 2002

115300. This chapter shall be known and may be cited as the Radiation Safety Act of 2002.

115301. For purposes of this chapter, the following definitions shall apply:

(a) “Background” means the local level of radioactivity from nature of like materials without enhancement by human activity, plus the local levels of fallout from nuclear weapons testing and the local deposition of fallout from past nuclear accidents located elsewhere in the world, including, but not limited to, the nuclear accident in Chernobyl.

(b) “Low-level radioactive waste,” has the same meaning as defined in subdivision (m) of Section 114985, but also includes byproduct, source material, or special nuclear material as defined in subdivisions (d), (e), and (f), respectively, of Section 114985, whether produced by a licensed or unlicensed entity.

(c) “NORM” means naturally occurring radioactive material, including radionuclides that are present in rocks, soil, minerals, and ground or surface water at concentrations that occur naturally and are present in the accessible environment. NORM does not include low-level waste, source material, special nuclear material, or byproduct material, as defined in Section 114985.

(d) “Radioactive waste” means any discarded radioactive material with radioactivity above the background level when measured with the best available technology.

(e) “Radioactive material” includes, but is not limited to, all of the following:

(1) Byproduct material, as defined in Sections 2014 (e) (1) and 2014 (e) (2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014 and following).

(2) Source and special nuclear material, as defined in subdivisions (e) and (f) of Section 114985.

(3) NORM.

(4) TENORM.

(5) Wastes from the Formerly Utilized Sites Remedial Action Program operated by the United States Army Corps of Engineers (FUSRAP), irrespective of when and where the wastes were generated

(f) “TENORM” means technologically enhanced naturally occurring radioactive material, including radionuclides that are naturally present in rocks, soil, minerals, and ground or surface water, and that past or present human activities, unrelated to the production of radioactive material, have incidentally concentrated or exposed to the accessible environment. TENORM does not include low-level waste, source material, special nuclear material, or byproduct material, as defined in Section 114985.

115302. (a) (1) No generator or owner of radioactive waste may dispose of, or transmit to any person or entity for disposal, radioactive waste in this state, except to a facility possessing a specific license or permit issued pursuant to Chapter 8 (commencing with Section 114960) to dispose of that particular type and amount of radioactive waste.

(2) No generator or owner of radioactive waste may dispose of, or transmit to any person or entity for disposal, any material containing byproduct, source, or special nuclear material in this state, except to a facility possessing a specific license, as defined in subdivision (h) of Section 114985, to dispose of byproduct, source, or special nuclear material in accordance with a license issued pursuant to Chapter 8 (commencing with Section 114960).

(3) Except as authorized pursuant to Article 9.8 (commencing with Section 25209.10) of Chapter 6.5 of Division 20, no person may dispose of NORM or TENORM waste.

(b) No person may recycle radioactive material, or material containing radioactive contamination in the state, so that the radioactivity is transferred or delivered to an person who is not licensed pursuant to Chapter 8 (commencing with Section 114960).

(c) No person may transfer a radioactive item, or item containing radioactive contamination, to a person for reuse who is not licensed pursuant to Chapter 8 (commencing with Section 114960).

(d) No person may transfer or deliver radioactive material to a person not possessing a license or permit specifically authorizing possession of that radioactive material pursuant to Chapter 8 (commencing with Section 114960, or as provided in Article 9.8 (commencing with Section 25209.10) of Chapter 6.5 of Division 20 with regard to NORM and TENORM waste.



1 (e) With regard to any enforcement action taken to enforce this
2 chapter, IS a rebuttable presumption that the material that is the
3 subject of the enforcement action is contaminated and the person
4 handling the material shall bear the burden of proof in that
5 enforcement action to demonstrate, with high confidence, that the
6 material is not contaminated.

7 115303. This chapter does not apply to any of the following
8 materials or activities:

9 (a) Short-lived radioactive materials of the type that are
10 commonly used in medicine, biotechnology, and academia, that
11 are at the end of their storage-to-decay period, and that are
12 managed by an approved storage-to-decay program, including an
13 onsite facility or a centralized facility.

14 (b) Liquid and gaseous radioactive effluents and releases to
15 sanitary sewers, of the types, amounts, and concentrations
16 specified in the regulations adopted by the Nuclear Regulatory
17 Commission or the department.

18 (c) Scintillation liquids from research and animal tissues
19 containing the amounts of tritium and carbon-14 specified in
20 Section 20.2005 of Title 10 of the Code of Federal Regulations, as
21 that section read on January 1, 2003.

22 (d) The technetium-99 associated with molybdenum-99
23 radioisotope generators of the type used in medicine.

24 (e) Radioactive materials intentionally inserted into products
25 for their radioactive purpose and that are specifically exempted by
26 the Nuclear Regulatory Commission from Part 30 (commencing
27 with Section 30.1) and Part 40 (commencing with Section 40.1)
28 of Title 10 of the Code of Federal Regulations, as those regulations
29 read on the date of enactment of the Energy Policy Act of 1992
30 (P.L. 102-486).

31 (f) The reuse or recycling of a radioactively contaminated item
32 by a person licensed to possess that item, pursuant to Chapter 8
33 (commencing with Section 114960), to the extent that the item
34 remains on the licensed site and is subject to regulatory control of
35 its onsite use, but does include the transfer of that item for
36 recycling or reuse by, or to, a person who does not possess a license
37 to possess that item, or to any other person.

38 (g) The reuse or recycling of a radioactive item by an
39 unlicensed federal entity, to the extent the item remains on the
40 property of the federal entity and under its control.



1 SEC. 6. Section 43022.5 is added to the Public Resources
2 Code, to read:

3 43022.5. (a) For purposes of this section, “radioactive
4 waste” has the same meaning as defined in Section 115301 of the
5 Health and Safety Code.

6 (b) Notwithstanding any other provision of law, no person may
7 dispose of radioactive waste at a solid waste facility that meets the
8 requirements of a class III waste management unit pursuant to
9 Chapter 15 (commencing with Section 2510) of Division 3 of Title
10 23 of the California Code of Regulations.

11 (c) The board shall adopt regulations requiring both of the
12 following:

13 (1) Testing and screening criteria, that shall be used to measure
14 radioactivity in solid waste material being submitted for disposal
15 of at a solid waste facility.

16 (2) The provision of notice to solid waste haulers and the public
17 in the form of signage and written notices at the solid waste facility.

18 SEC. 7. The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 SEC. 8. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

